

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

ILIFE TECHNOLOGIES, INC.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. 3:13-cv-4987-M
	§	
NINTENDO OF AMERICA INC.,	§	JURY TRIAL DEMANDED
	§	
Defendant.	§	

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**JOINT SETTLEMENT STATUS REPORT**

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Pursuant to the Court's Scheduling Order [Doc. 126] dated October 6, 2016, Plaintiff iLife Technologies, LLC, and Defendant Nintendo of America Inc. ("NOA") file this Report Regarding Settlement Status, as follows:

**Plaintiff's Statement Regarding Settlement Status:**

iLife has made significant efforts to discuss and pursue possible settlement. For example, iLife counsel Michael Wilson raised the issue of settlement shortly after the Court lifted the stay on July 11, 2016, following the IPR decision. At that time, iLife requested that Nintendo supplement its discovery to provide updated financial and sales information to allow iLife to make a settlement proposal. On or about October 19, 2016, Nintendo supplemented its discovery regarding sales of the accused products and other conveyed sales. On November 1, 2016, iLife made a written confidential settlement proposal and requested a response by November 11, 2016. In the proposal, iLife also offered to attend either an informal settlement conference or mediation before December 1, 2016. On at least two occasions since then, counsel for iLife has initiated discussions regarding its written settlement proposal. During one

discussion, Nintendo indicated that one issue impacting Nintendo's evaluation of settlement was that the Court has not issued a claim construction order. During one of these discussions, iLife again raised the possibility of mediation. Counsel for Nintendo indicated he would speak with Nintendo. As of today's date, Nintendo has not responded to iLife's written settlement proposal, or indicated whether it would agree to attend mediation.

Plaintiff believes mediation with a magistrate or private mediator would facilitate settlement discussions. If the Court believes a private mediator is appropriate, Plaintiff proposes Hon. Jeff Kaplan as mediator.

**Defendant's Statement Regarding Settlement Status:**

On November 1, 2016, over a year after deposing a corporate representative of NOA and receiving documents regarding financial topics, iLife for the first time sent a written settlement proposal to NOA's counsel. Subsequently, counsel for both parties engaged in informal settlement discussions, including the issue of a possible mediation. NOA's counsel informed iLife's counsel that iLife's demand was well outside any reasonable settlement amount for this case. Given the current state of this lawsuit, including the fact that fact and expert discovery are ongoing and a claim construction has not yet issued, NOA is of the position that mediation would not be fruitful at this time, but the parties should revisit the issue after the close of discovery.

Dated: December 1, 2016

/s/ Thomas C. Wright

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**ATTORNEYS FOR DEFENDANT  
NINTENDO OF AMERICA, INC.**

Respectfully submitted,

/s/ Michael C. Wilson

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**ATTORNEYS FOR PLAINTIFF iLIFE  
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**CERTIFICATE OF CONFERENCE**

I certify that the parties have conferred and agreed on the form of this submission.

/s/ Michael C. Wilson

Michael C. Wilson

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of this document has been served via the Court's CM/ECF in accordance with the Federal Rules of Civil Procedure on December 1, 2016.

/s/ Michael C. Wilson

Michael C. Wilson

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